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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/747,774	12/29/2003	Kristine B. Fuimaono	51638/AW/W112	6472

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EXAMINER	
BOUCHELLE, LAURA A	
ART UNIT	PAPER NUMBER
3763	
MAIL DATE	DELIVERY MODE
08/18/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/747,774	FUIMAONO, KRISTINE B.	
	Examiner	Art Unit	
	LAURA A. BOUCHELLE	3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 June 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/3/09 has been entered.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1, 2, 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eggers et al (US 6047700) in view of Tu et al (US 5971968). Eggers discloses an irrigation and ablation probe comprising a probe body 90 that is generally rigid (col. 4, lines 27-20), wherein the distal end is bent at an angle (col. 20, lines 7-12, see Fig. 9 where the probe is bent to approximately 90 degrees), tubing 18 for delivering fluid, a tip electrode 104, and a handle 204. Eggers discloses that the probe is 10 to 20 cm (4-8 inches) or more in length (Col. 8, lines 44-46). The electrode is formed from a ring of electrodes working in unison and having an opening for irrigation fluid through the center of the ring of electrodes. See Fig. 7C. Eggers discloses that the device delivery electrical energy to remove and/or modify tissue or cartilage, i.e. ablate, or cut and resect tissue (col. 6, lines 16-25).

3. Claim 1 differs from Eggers in calling for the electrode to have irrigation openings and the tubing to extend through the probe lumen. Claim 2 calls for the irrigation fluid introducing

means to be an infusion tube. Tu teaches a catheter probe having a tip electrode 11 having irrigation holes 74, 75 therein and tubing 54 for delivering fluid there through. Including the irrigation means on the inside of the probe is beneficial because it allows the device to be more easily inserted into the body and allows the device to be used in any orientation while providing irrigation fluid to the target site. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Eggers to include the irrigation tubing extending through the probe lumen and have the irrigation holes in the electrode as taught by Tu so that the target site can be irrigated and the device is more convenient to use.

4. Regarding claim 12, Tu teaches that the tip electrode may be porous as is well known in the art (Col. 6, lines 66-67).

5. Regarding claim 13, Tu discloses that the probe has a temperature sensing means (Col. 4, lines 38-39)

6. Claims 3-7, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eggers in vie of Tu as applied to claim 1 above, and further in view of Alt (US 5411527). Claims 3, 7, 17 further differ from Eggers in view of Tu in calling for the probe to include a stiffening wire. Alt teaches a device for treating atrial fibrillation comprising a probe having a stiffening wire 30 that straightens and stiffens the tube sufficiently to be passed through a puncture in the chest wall (Col. 15, lines 37-42). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Eggers in view of Tu to include a stiffening wire in the probe as taught by Alt so that the probe is straight and stiff enough to be inserted through a puncture in the chest wall.

7. Claims 8, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eggers in view of Tu in view of Alt as applied to claim 3 above, and further in view of Lucas et al (US 5795332). Claim 8 differs from the teachings above in calling for the stiffening wire to be stainless steel. Claim 9 differs in calling for the wire to be a malleable material. Lucas teaches a catheter having a stiffening wire made of stainless steel (a malleable metal) to provide the desired rigidity to the catheter (Col. 6, lines 44-46). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Eggers in view of Tu in view of Alt to have the stiffening wire made of stainless steel because it is well known in the art that stainless steel can be used to form stiffening wires.

Response to Arguments

2. Applicant's arguments filed 3/11/09 have been fully considered but they are not persuasive. Applicant argues that Eggers teaches away from configuring the electrode to ablate tissue to form a lesion and points to col. 2, lines 38-64 of the disclosure. The examiner believes that this is a mischaracterization of the Eggers disclosure. The passage cited by Applicant teaches away from the use of lasers to ablate tissue because they can cause deep tissue damage. The examiner points applicant to Col. 6, lines 16-30 of the disclosure where Eggers discloses that the invention uses high frequency electrical energy (not lasers) to remove tissue, in other words to ablate tissue, or to cut or resect tissue. In fact, Eggers explicitly discloses that "the present invention is particularly useful for ablation." While Eggers does not specifically use the word lesion, the examiner believes that the ablation or removal of tissue inherently forms a lesion. It is clear, when taken as a whole, that the disclosure of Eggers does not teach away from ablating tissue, but instead teaches that the purpose of the device is to ablate tissue.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAURA A. BOUCHELLE whose telephone number is (571)272-2125. The examiner can normally be reached on Monday-Friday 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 517-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laura A Bouchelle
Examiner
Art Unit 3763

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Examiner, Art Unit 3763

/Nicholas D Lucchesi/
Supervisory Patent Examiner, Art Unit 3763